

SUPPORTING STATEMENT  
Occupational Noise Exposure

<u>OMB Control</u>	<u>30 CFR Citations</u>	<u>Title</u>
1219-0120	§ 62.110(d)	Noise exposure assessment.
	§ 62.130(a)	Permissible exposure level.
	§ 62.171(b)	Audiometric test procedures.
	§ 62.172(a)(1) & ((a)(2)	Evaluation of audiograms.
	§ 62.174(a)	Follow-up corrective measures when a standard threshold shift is detected
	§ 62.175(a)(1)&(a)(2)	Notification of results; reporting requirements.
	§ 62.180(b)	Training.
	§ 62.190(a) & (b)	Records.

## A. JUSTIFICATION

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

Noise is a harmful physical agent and one of the most pervasive health hazards in mining. Repeated exposure to high levels of sound over time causes occupational noise-induced hearing loss (NIHL), a serious, often profound physical impairment in mining, with far-reaching psychological and social effects. NIHL can be distinguished from aging and other factors that can contribute to hearing loss and it can be prevented. According to the National Institute for Occupational Safety and Health (NIOSH), NIHL is among the "top ten" leading occupational illnesses and injuries.

For many years, NIHL was regarded as an inevitable consequence of working in a mine. Mining, an intensely mechanized industry, relies on drills, crushers, compressors, conveyors, trucks, loaders, and other heavy-duty equipment for the excavation, haulage, and processing of material. This equipment creates high sound levels, exposing machine operators as well as miners working nearby. MSHA, OSHA, the military, and other organizations around the world have established and enforced standards to reduce the loss of hearing. Quieter equipment, isolation of workers from noise sources, and limiting the time workers are exposed to noise are among the many well-accepted methods that will prevent the costly incidence of NIHL.

Records of miner exposures to noise are necessary so that mine operators and MSHA can evaluate the need for and effectiveness of engineering controls, administrative controls, and personal protective equipment to protect miners from harmful levels of noise that can result in hearing loss. However, the Agency believes that extensive records for this purpose are not needed. These requirements are a performance-oriented approach to monitoring. Records of miner hearing examinations enable mine operators and MSHA to ensure that the controls are effective in preventing NIHL for individual miners. Records of training are needed to confirm that miners receive the information they need to become active participants in hearing conservation efforts.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Mine operators and MSHA use the information collected to ensure that engineering controls, administrative controls, and personal protective equipment are used as intended to protect miners from harmful levels of exposure. When miners are trained or notified of their personal exposure to noise, it supports an interest in their own health and encourages their active participation in hearing conservation efforts.

Hearing tests of miners are offered and if a miner chooses to be tested, mine operators must compile and maintain a record of each audiometric exam. When noise-induced hearing loss is found, mine operators must take certain protective action. The record is used by mine operators to assess the effectiveness of their noise controls and by MSHA to verify that testing was done and to flag that actions were required to be taken.

Mine operators must train miners whose noise exposure meets or exceeds the action level about noise exposure hazards, the proper use of hearing protection, the protective choices available, the hearing test program, and what the operator has done to control noise. Training records are needed to confirm that miners receive the information they need to understand the noise hazards of their workplaces and become active participants in hearing conservation efforts. Training records are required under other MSHA regulations and are used for similar purposes.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Electronic storage of information and assessing it through computers is a common business practice. Recognizing this trend, the noise rule provided that records are not required to be maintained at the mine site and can be filed electronically in a central location. The records have to be made available to the authorized representative of the Secretary upon request within a reasonable time, in most cases one day. Although the

noise rule did not require backing up the data, some means are necessary to ensure that electronically stored information is not compromised or lost.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

No duplicative information exists. The information collected is unique to a specific individual and a specific mine.

**5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

This information does not have a significant impact on small businesses or other small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

MSHA believes that the recordkeeping requirements for noise are the minimum necessary to ensure that miners are adequately protected against the harm of excessive noise levels. Reduction in these requirements would result in the development of unhealthy and unsafe conditions in the mine. Section 101(a)(6) of the Mine Act provides that in setting standards to protect miners from the risks of harmful physical agents, the Secretary "shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life."

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

Timely notification to miners of the results of audiometric testing is essential to protect them from harmful noise exposures. Section 62.110(d) requires the operator to inform a miner in writing of an exposure determination that is equal to or exceeds the action level, exceeds the permissible exposure level (PEL), or exceeds the dual hearing protection level, and of the corrective action being taken, within 15 calendar days of the exposure determination. Section 62.175(a) requires operators to inform the miner in writing of the results of the audiometric test within 10 working days of receiving the results. Timely notification is an important first step in protecting miners from excessive noise exposure to avoid further hearing loss. These time periods are the maximum allowable to ensure that the miner is informed and that precautions are taken to protect the miner as soon as reasonably practical.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

MSHA published a 60-day *Federal Register* notice on March 22, 2012 (77 FR 16865). MSHA received one comment which supported the continuing collection of such information and records. The commenter stated that such records "are necessary to ensure that these enforcement protections are kept. The reporting burden pales in comparison to the value added for protecting our Nation's miners."

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

MSHA does not provide payment or gifts to the respondents identified by this collection.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Operators (respondents) are not assured of confidentiality. However, under 30 CFR 62.172(a)(3), physicians, audiologists and certain other health professionals are prohibited from sharing with the mine operator certain findings or diagnoses unrelated to a miner's hearing loss without the miner's written consent.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions of a sensitive nature.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

NOTE: Burden hour costs were calculated using the following hourly wage rates from *U.S. Coal Mines Salaries, Wages, and Benefits – 2010 Survey Results*, compiled by Krista Noyes Salzer, InfoMine USA, Inc., 2010. These are composite rates that combine wage rates for both underground and surface mines for coal and M/NM mines:

Coal Supervisor: \$78.35  
 M/NM Supervisor: \$63.06  
 Coal Secretary: \$26.44  
 M/NM Secretary: \$26.28

2011 # of mines updated to Qtr 4 of FY-2011 (Total Respondents):

Coal Surface	1,320
Coal Underground	556
MNM Surface	11,135
MNM Underground	<u>234</u>
	13,245

In addition, the estimates about the number of new miners needing training in both Coal and M/NM mines and the number of new tasks included in this information collection are based on MSHA experience with enforcement of and compliance with the noise rule since it was promulgated in 1999.

Section 62.110(d) requires that a miner be notified whenever the miner's exposure equals or exceeds the action level, exceeds the permissible exposure level, or exceeds the dual hearing protection level, and the miner has not received notification by the mine operator of exposure at such level within the prior 12 months. The mine operator is required to use an exposure evaluation conducted either by the mine operator or by an authorized representative of the Secretary of Labor as a basis for the notification. The operator must notify the miner in writing within 15 calendar days of (1) the exposure determination; and (2) the corrective action being taken.

In each mine, MSHA estimates that it will take 0.08 hours (5 minutes) for a clerical worker to prepare the notification for each miner. MSHA assumes that during the course of inspections since the introduction of the noise rule that existing miners' exposure levels have been tested and notification given. Therefore, only newly hired miners and miners reassigned to new positions will likely be affected each year. MSHA estimates that 298 small coal mines will distribute 2,268 notices, 219 large coal mines will distribute 15,768 notices, 4,794 small M/NM mines will distribute 14,382 notices, and 773 large M/NM mines will distribute 25,509 notices annually.

**COAL**

Annual burden hours to notify miners in writing  
 18,036 notices x 0.08 hours (clerical) = 1,443 hours

Annual Burden hour cost to notify miners in writing  
 1,443 hours x \$26.44 (clerical) wage rate = \$38,153

**METAL/NONMETAL**

Annual burden hours to notify miners in writing  
 39,891 notices x 0.08 hours (clerical) = 3,191 hours

Annual burden hour cost to notify miners in writing  
 3,191 hours x \$26.28 (clerical) wage rate = \$83,859

Section 62.130(a) If during any work shift a miner's noise exposure exceeds the PEL, the mine operator is required to use all feasible engineering and administrative controls to reduce the miner's noise exposure to the PEL, and enroll the miners in a hearing conservation program (HCP). When administrative controls are used to reduce a miner's exposure, the mine operator must post the procedures for such controls on the mine bulletin board and provide a copy to the affected miner.

In each mine, MSHA estimates, based on its experience, that it will take a mine supervisor 0.75 hours to write the administrative controls/final procedures in small mines and 1.5 hours for large mines. In addition, it will take 5 minutes (0.08 hours) for a clerical worker to copy and post controls/procedures and the corrective action being taken.

MSHA experience indicates that during the course of inspections since the introduction of the noise rule, administrative controls and procedures have been developed and instituted for existing positions; therefore, only newly created positions and newly created tasks will likely be affected each year. Based on the number of new miners and tasks, MSHA estimates that 23 small coal mines will distribute 120 new controls and procedures, 72 large coal mines will distribute 360 new controls and procedures, 64 small M/NM mines will distribute 385 new controls and procedures, and 197 large M/NM mines will distribute 10,058 new controls and procedures annually.

**COAL**

Annual burden hours to write administrative controls/final procedures  
 23 mines (SM) x 0.75 hours (supv.) = 17 hours  
 72 mines (LG) x 1.5 hours (supv.) = 108 hours  
 = 125 hours

Annual burden hours to copy and post controls  
 95 mines x 0.08 hours (clerical) = 8 hours

**Coal All Burden Hours      133 hours**

Annual burden hour cost to write, copy and post administrative controls

125 hours x \$78.35 (supv.) wage rate	=	\$9,793
8 hours x \$26.44 (clerical) wages	=	<u>\$212</u>
		<b>\$10,005</b>

**METAL/NONMETAL**

Annual burden hours to write administrative controls/final procedures

64 mines (SM) x 0.75 hours (supv.)	=	48 hours
197 mines (LG) x 1.5 hours (supv.)	=	<u>296</u> hours
		344 hours

Annual burden hours to copy and post controls

261 mines (64+197) x 0.08 hours (clerical)	=	21 hours
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**M/NM All Burden Hours      365 hours**

Annual burden hour cost to write, copy and post administrative controls

344 hours x \$63.06 (supv.) wage rate	=	\$21,693
21 hours x \$26.28 (clerical) wage rate	=	<u>\$552</u>
		<b>\$22,245</b>

**Costs of photocopying supplies are shown in Item 13.**

Section 62.171(b) requires operators to compile an audiometric test record including: 1) name and job classification of the miner who has undergone the audiometric test; 2) a copy of all of the miner's audiograms conducted under this part; 3) evidence that the audiograms were conducted in accordance with paragraph (a) of this section; 4) any exposure determination for the miner; and 5) the results of any follow-up examination.

In each mine, it will take a clerical worker 5 minutes (0.08 hours) to create each miner's audiometric test record.

MSHA estimates that 12,959 miners working at coal mines and 20,170 miners working at M/NM mines are affected annually by this provision.

**COAL**

Annual burden hours to create audiometric test records

12,959 miners x 0.08 hours (clerical)	=	1,037 hours
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Annual cost of burden hours to create audiometric test records  
1,037 hours x \$26.44 (clerical) wage rate = \$27,418

**METAL/NONMETAL**

Annual burden hours to create audiometric test records  
20,170 miners x 0.08 hours (clerical) = 1,614 hours

Annual costs of burden hours to create audiometric test records  
1,614 hours x \$26.28 (clerical) wage rate = \$42,416

Section 62.172(a)(1) & (a)(2) requires the operator to inform persons evaluating audiograms of the requirements of this part and to provide them with a copy of the miner's audiometric test records. Section 62.172(a)(2) requires that audiograms be evaluated by a physician, an audiologist, or a qualified technician who is under the direction or supervision of a physician or audiologist. The costs and burdens for § 62.172(a)(1) and (a)(2) are calculated together, since they are dependent.

Based on MSHA experience, in each mine, it will take a clerical worker 5 minutes (0.08 hours) to provide a skilled medical professional with a copy of each miner's audiometric test record.

**COAL**

Annual burden hours to provide audiometric test records  
12,959 miners x 0.08 hours (clerical) = 1,037 hours

Annual cost of burden hours to provide audiometric test records  
1,037 hours x \$26.44 (clerical) wage rate = \$27,418

**METAL/NONMETAL**

Annual burden hours to provide audiometric test records  
20,170 miners x 0.08 hours (clerical) = 1,614 hours

Annual cost of burden hours to provide audiometric test records  
1,614 hours x \$26.28 (clerical) wage rate = \$42,416

**Costs for photocopying are shown in Item 13.**

Section 62.174(a) requires that retraining be provided in accordance with § 62.180. Section 62.180(b) requires the operator to certify the date and type of training given

each miner and to retain the most recent certification for as long as the miner is enrolled in the hearing conservation program, and for at least six months thereafter.

In each mine it will take a 3 minutes (0.05 hours), per miner, to certify the date and type of training and to maintain the certification.

MSHA estimates that 249 miners in small coal mines, 986 miners in large coal mines, 923 miners in small M/NM mines, and 1,569 miners in large M/NM mines are affected annually by this provision.

### **COAL**

Annual burden hours to certify date and type of retraining  
1,235 miners x 0.05 hours (supervisor) = 62 hours

Annual burden hour costs to certify date and type of retraining  
62 hours x \$78.35 (supervisor) wage rate = \$4,858

### **METAL/NONMETAL**

Annual burden hours to certify date and type of retraining  
2,492 miners x 0.05 hours (supervisor) = 125 hours

Annual burden hour costs to certify date and type of retraining  
125 hours x \$63.06 (supervisor) wage rate = \$7,883

Section 62.175(a) requires the operator to notify the miner in writing within 10 working days of the results and interpretation of an audiometric test or follow-up evaluation (otological examination), including any finding of a standard threshold shift (STS) or reportable hearing loss and the need, and reasons for, any further testing.

In each mine, it will take a clerical worker 5 minutes (0.08 hours) to prepare a written notification about the results for each miner.

### **COAL**

Annual burden hours to notify miners of test results  
12,959 miners x 0.08 hour (clerical) = 1,037 hours

Annual cost of burden hours to notify miners of test results  
1,037 hours x \$26.44 (clerical) wage rate = \$27,418

## **METAL/NONMETAL**

Annual burden hours to notify miners of test results  
20,170 miners x 0.08 hours (clerical) = 1,614 hours

Annual cost of burden hours to notify miners of test results  
1,614 hours x \$26.28 (clerical) wage rate = \$42,416

Section 62.180(b) requires mine operators to certify the date and type of training given each miner, and to maintain the miner's most recent certification for as long as the miner is enrolled in the HCP, and for at least 6 months thereafter. The type of training may be initial noise training, annual retraining, or special retraining required for a miner as a result of an STS. The estimates for certifying special retraining are listed under § 62.174.

In each mine, it will take a supervisor 3 minutes (0.05 hours) to certify the date and type of training for miners receiving initial or annual refresher noise training..

MSHA estimates that 1,593 coal mines and 8,492 M/NM mines are affected annually by this provision.

## **COAL**

Annual burden hours to certify the date and type of training  
1,593 mines x .05 hours (supv.) = 80 hours

Annual cost of burden hours to certify the date and type of training  
80 hours x \$78.35 (supv.) wage = \$6,268

## **METAL/NONMETAL**

Annual burden hours to certify the date and type of training  
8,492 mines x 0.05 hours (supv.) = 425 hours

Annual burden hour costs to certify the date and type of training  
425 hours x \$63.06 (supv.) wage rate = \$ 26,801

Section 62.190(a) requires mine operators to provide access to all records required under this part to the authorized representatives of the Secretaries of Labor and Health and Human Services. Upon written request, the mine operator must provide, within 15 calendar days, access to records to miners and the miner's designee, and training certifications and notices of exposure determinations to miners and their authorized

representatives. The mine operator must also provide, to any former miner, records which indicate his or her own exposure.

Section 62.190(b) requires the operator to provide the first copy of a record to a person who has access, at no cost to that person, and additional copies requested by that person at reasonable cost. Miners are routinely provided a copy of their training records.

In each mine, it will take a clerical worker 1 minute (0.02 hours) to photocopy each miner's records.

MSHA estimates, based on noise exposure data from large and small coal and M/NM mines that a certain percentage of miners will request copies, that 4,309 miners working at coal mines and 21,275 miners working at M/NM mines annually will request the first copy of a record.

**COAL**

Annual burden hours to make a copy of records requested  
 4,309 miners x 0.02 hours (clerical) = 86 hours

Annual cost of burden hours to make a copy of records requested  
 86 hours x \$26.44 (clerical) wage rate = \$2,274

**METAL/NONMETAL**

Annual burden hours to make a copy of records requested  
 21,275 miners x 0.02 hours (clerical) = 426 hours

Annual burden hour costs to make a copy of records requested  
 426 hours x \$26.28 (clerical) wage rate = \$11,195

**Costs for photocopying are shown in Item 13.**

<b>Summary of Annual Burden Hours, Costs and Responses</b>			
Provision Number	Annual Burden Hours	Annual Cost of Burden Hours	Annual Responses
§62.110(d)	4,634	\$122,012	57,927
§62.130	498	\$32,250	10,923
§62.171(b)	2,651	\$69,834	33,129
§62.172(a)(1) & (a)(2)	2,651	\$69,834	33,129
§62.174(a)	187	\$12,741	3,727
§62.175(a)	2,651	\$69,834	33,129

§62.180(b)	505	\$33,069	10,085
§62.190	512	\$13,469	25,584
<b>Totals</b>	<b>14,289</b>	<b>\$423,043</b>	<b>207,633</b>

<b>TOTAL BURDEN HOURS</b>	<b>=</b>	<b>14,289</b>
<b>TOTAL COST OF BURDEN HOURS</b>	<b>=</b>	<b>\$ 423,043</b>
<b>TOTAL RESPONSES</b>	<b>=</b>	<b>207,633</b>

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

Section 62.130 states that no miner shall be exposed during any work shift to noise that exceeds a time-weighted average-8 hour (TWA<sub>8</sub>) of 90 decibel (dBA) permissible exposure level (PEL), or equivalently a dose of 100% of that permitted by the standard,

integrating all sound levels from 90 dBA to at least 140 dBA. If during any work shift a miner's noise exposure exceeds the PEL, the mine operator is required to use all feasible engineering and administrative controls to reduce the miner's noise exposure to the PEL, and enroll the miners in a hearing conservation program. When administrative controls are used to reduce a miner's exposure, the mine operator must post the procedures for such controls on the mine bulletin board and provide a copy to the affected miners.

Administrative Controls

The noise rule requires mine operators to supply a copy, estimated to be \$0.30 per copy, of the written administrative control procedures to each of the 120 affected miners in small coal mines, 360 affected miners in large coal mines, 385 affected miners in small M/NM mines and 10,058 affected miners in large M/NM mines.

Annual Material Costs for Coal Mines

480 miners x \$0.30 = \$144

Annual Material Costs for M/NM Mines

10,443 miners x \$0.30 = \$3,133

**TOTAL ANNUAL COSTS FOR PHOTOCOPYING SUPPLIES \$3,277**

Section 62.172(a)(2) states that audiograms must be evaluated by a physician, an audiologist, or a qualified technician who is under the direction or supervision of a physician or audiologist. This section requires the operator to inform persons evaluating audiograms of the requirements of this part and to provide them with a copy of the miner's audiometric test records.

It costs \$0.30 per miner for photocopying audiometric test records. In addition, MSHA estimates that it will cost approximately \$6 for a small mine and \$11 for a large mine to mail miners' records to physicians, audiologists, or qualified technicians.

MSHA estimates that approximately 2,541 miners in 367 small coal mines, 10,418 miners in 339 large coal mines, 7,940 miners in 719 small M/NM mines, and 11,238 miners in 290 large M/NM mines will be taking annual audiogram retests.

Annual Copying Costs for Coal and M/NM Mines

12,959 miners x \$0.30 = \$3,888

20,170 miners x \$0.30 = \$6,051

Total Copying Costs = \$9,939

Annual Postage Costs for Coal and M/NM Mines

367 small coal mines x \$6 = \$2,202

339 large coal mines x \$11 = \$3,729

**Total Postage Cost for Coal Mines = \$5,931**

719 small M/NM mines x \$6	=	\$4,314
290 large M/NM mines x \$11	=	<u>\$3,190</u>
<b>Total Postage Costs for M/NM mines</b>	=	<b>\$7,504</b>
<b>Total Annual Copying and Postage Costs</b>	=	<b>\$23,374</b>

Section 62.190(b) requires the operator to provide the first copy of a record to a person who has access, at no cost to that person, and additional copies requested by that person at reasonable cost. MSHA assumes that every miner tested will want a copy of his or her audiogram.

It will cost the mine operator \$0.30 to photocopy a record for each miner. MSHA estimates that there are 4,309 miners in coal mines and 21,275 miners in M/NM mines that are affected annually by this provision.

<u>Annual Costs for Coal Mines</u>		
4,309 miners x \$0.30	=	\$1,293
<u>Annual Costs for M/NM Mines</u>		
21,275 miners x \$0.30	=	<u>\$6,383</u>
<b>TOTAL ANNUAL COSTS</b>	=	<b>\$7,676</b>
<b>TOTAL QUESTION 13 COST</b>	=	<b>\$34,327</b>

**14. Provide estimates of annualized cost to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.**

None of the records in this information collection review are submitted to MSHA for review or approval. The records are examined during normal mandatory inspections and do not significantly add to the time required to conduct those mandatory inspections. Therefore, there is no cost to the Federal government (MSHA) directly associated with these record keeping requirements.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

Due to an decrease in the number of mines and subsequently the number of miners, there is an decrease in the number of respondents. However, the decrease in the

number of responses and, therefore, hours and cost burden, reflects an updated estimate in the number of instances that trigger the requirements of MSHA's relevant noise assessment standard as well as the removal of burden estimates for the following provisions: 62.110(a), 62.110(c), 62.172(a)(3), 62.174(a), 62.175(a)(1), 62.175(a)(2), 62.180 and 62.190(c). The burdens for these provisions have been removed because they did not constitute an actual paperwork burden and had been unnecessarily included in previous ICRs under this Control Number. Only those provisions that create an actual paperwork burden remain.

<b>Respondents:</b>	Decrease of 1,481 (from 14,726 to 13,245)
<b>Responses:</b>	Decrease of 557,120 (from 764,753 to 207,633)
<b>Hours:</b>	Decrease of 69,857 (from 84,146 to 14,289)
<b>Costs:</b>	Decrease of \$5,437,722 (from \$5,472,049 to \$34,327)

**16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including the beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results of this information collection are not scheduled for publication.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

MSHA is not seeking approval to not display the expiration date for OMB approval. MSHA has no forms associated with this collection of information on which to display an expiration date.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no certification exceptions identified with this information collection.

## **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.



## **ATTACHMENTS**

(In response to Question 1)

### **Federal Mine Safety & Health Act of 1977 Public Law 91-173, as amended by Public Law 95-164**

#### **GENERAL**

#### **MANDATORY SAFETY AND HEALTH STANDARDS**

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

(6)(A) The Secretary, in promulgating mandatory standards dealing with toxic materials or harmful physical agents under this subsection, shall set standards which most adequately assure on the basis of the best available evidence that no miner will suffer material impairment of health or functional capacity even if such miner has regular exposure to the hazards dealt with by such standard for the period of his working life. Development of mandatory standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the mandatory health or safety standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(B) The Secretary of Health, Education, and Welfare, as soon as possible after the date of enactment of the Federal Mine Safety and Health Amendments Act of 1977 but in no event later than 18 months after such date and on a continuing basis thereafter, shall, for each toxic material or harmful physical agent which is used or found in a mine, determine whether such material or agent is potentially toxic at the concentrations in which it is used or found in a mine. The Secretary of Health, Education, and Welfare shall submit such determinations with respect to such toxic substances or harmful physical agents to the Secretary. Thereafter, the Secretary of Health, Education, and Welfare shall submit to the Secretary all pertinent criteria regarding any such substances determined to be toxic or any such harmful agents as such criteria are developed. Within 60 days after receiving any criteria in accordance with the preceding sentence relating to a toxic material or harmful physical agent which is not adequately covered by a mandatory health or safety standard promulgated under this section, the Secretary shall either appoint an advisory committee to make recommendations with respect to a mandatory health or safety standard covering such material or agent in accordance with paragraph (1), or publish a proposed rule promulgating such a mandatory health or safety standard in accordance with paragraph (2), or shall publish his determination not to do so.

## INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

### SEC. 103.

Section 103(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813, authorizes MSHA to collect information necessary to carryout its duty to protecting the safety and health of miners as follows:

(c) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act. Such regulations shall provide miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each miner or former miner to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each operator shall promptly notify any miner who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable mandatory health or safety standard promulgated under section 101, or mandated under title II, and shall inform any miner who is being thus exposed of the corrective action being taken.

(e) Any information obtained by the Secretary or by the Secretary of Health, Education, and Welfare under this Act shall be obtained in such a manner as not to impose an unreasonable burden upon operators, especially those operating small businesses, consistent with the underlying purposes of this Act. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

(h) In addition to such records as are specifically required by this Act, every operator of a coal or other mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary or the Secretary of Health, Education, and Welfare may reasonably require from time to time to enable him to perform his functions under this Act. The Secretary or the Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this Act, all records, information, reports, findings, citations, notices, orders, or decisions required or issued pursuant to or under this Act may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

## 30 CFR Citations

### **§ 62.110 Noise exposure assessment.**

(a) The mine operator must establish a system of monitoring that evaluates each miner's noise exposure sufficiently to determine continuing compliance with this part.

\* \* \* \* \*

(c) Observation of monitoring. The mine operator must provide affected miners and their representatives with an opportunity to observe noise exposure monitoring required by this section and must give prior notice of the date and time of intended exposure monitoring to affected miners and their representatives.

(d) Miner notification. The mine operator must notify a miner of his or her exposure when the miner's exposure is determined to equal or exceed the action level, exceed the permissible exposure level, or exceed the dual hearing protection level, provided the mine operator has not notified the miner of an exposure at such level within the prior 12 months. The mine operator must base the notification on an exposure evaluation conducted either by the mine operator or by an authorized representative of the Secretary of Labor. The mine operator must notify the miner in writing within 15 calendar days of:

- (1) the exposure determination; and
- (2) the corrective action being taken.

(e) The mine operator must maintain a copy of any such miner notification, or a list on which the relevant information about that miner's notice is recorded, for the duration of the affected miner's exposure at or above the action level and for at least 6 months thereafter.

### **§ 62.130 Permissible exposure level.**

(a) The mine operator must assure that no miner is exposed during any work shift to noise that exceeds the permissible exposure level. If during any work shift a miner's noise exposure exceeds the permissible exposure level, the mine operator must use all feasible engineering and administrative controls to reduce the miner's noise exposure to the permissible exposure level, and enroll the miner in a hearing conservation program that complies with § 62.150 of this part. When a mine operator uses administrative controls to reduce a miner's exposure, the mine operator must post the procedures for such controls on the mine bulletin board and provide a copy to the affected miner.

\* \* \* \* \*

### **§ 62.171 Audiometric test procedures.**

(a) All audiometric testing under this part must be conducted in accordance with scientifically validated procedures. Audiometric tests must be pure tone, air conduction, hearing threshold examinations, with test frequencies including 500, 1000, 2000, 3000, 4000, and 6000 Hz. Each ear must be tested separately.

(b) The mine operator must compile an audiometric test record for each miner tested. The record must include:

- (1) name and job classification of the miner tested;
  - (2) a copy of all of the miner's audiograms conducted under this part;
  - (3) evidence that the audiograms were conducted in accordance with paragraph (a) of this section;
  - (4) any exposure determination for the miner conducted in accordance with § 62.110 of this part; and
  - (5) the results of follow-up examination(s), if any.
- (c) The operator must maintain audiometric test records for the duration of the affected miner's employment, plus at least 6 months, and make the records available for inspection by an authorized representative of the Secretary of Labor.

**§ 62.172 Evaluation of audiograms.**

- (a) The mine operator must:
- (1) inform persons evaluating audiograms of the requirements of this part and provide those persons with a copy of the miner's audiometric test records;
  - (2) have a physician or an audiologist, or a qualified technician who is under the direction or supervision of a physician or audiologist:
    - (i) determine if the audiogram is valid; and
    - (ii) determine if a standard threshold shift or a reportable hearing loss, as defined in this part, has occurred.
  - (3) instruct the physician, audiologist, or qualified technician not to reveal to the mine operator, without the written consent of the miner, any specific findings or diagnoses unrelated to the miner's hearing loss due to occupational noise or the wearing of hearing protectors; and
  - (4) obtain the results and the interpretation of the results of audiograms conducted under this part within 30 calendar days of conducting the audiogram.
- (b)(1) The mine operator must provide an audiometric retest within 30 calendar days of receiving a determination that an audiogram is invalid, provided any medical pathology has improved to the point that a valid audiogram may be obtained.
- (2) If an annual audiogram demonstrates that the miner has incurred a standard threshold shift or reportable hearing loss, the mine operator may provide one retest within 30 calendar days of receiving the results of the audiogram and may use the results of the retest as the annual audiogram.

\* \* \* \* \*

**§ 62.174 Follow-up corrective measures when a standard threshold shift is detected**

The mine operator must, within 30 calendar days of receiving evidence or confirmation of a standard threshold shift, unless a physician or audiologist determines the standard threshold shift is neither work-related nor aggravated by occupational noise exposure:

- (a) retrain the miner, including the instruction required by § 62.180 of this part;

\* \* \* \* \*

### **§ 62.175 Notification of results; reporting requirements.**

(a) The mine operator must, within 10 working days of receiving the results of an audiogram, or receiving the results of a follow-up evaluation required under § 62.173 of this part, notify the miner in writing of:

(1) the results and interpretation of the audiometric test, including any finding of a standard threshold shift or reportable hearing loss; and

(2) the need and reasons for any further testing or evaluation, if applicable.

(b) When evaluation of the audiogram shows that a miner has incurred a reportable hearing loss as defined in this part, the mine operator must report such loss to MSHA as a noise-induced hearing loss in accordance with part 50 of this title, unless a physician or audiologist has determined that the loss is neither work-related nor aggravated by occupational noise exposure.

\* \* \* \* \*

### **§ 62.180 Training.**

\* \* \* \* \*

(b) The mine operator must certify the date and type of training given each miner, and maintain the miner's most recent certification for as long as the miner is enrolled in the hearing conservation program and for at least 6 months thereafter.

### **§ 62.190 Records.**

(a) The authorized representatives of the Secretaries of Labor and Health and Human Services must have access to all records required under this part. Upon written request, the mine operator must provide, within 15 calendar days of the request, access to records to:

(1) the miner, or with the miner's written consent, the miner's designee, for all records that the mine operator must maintain for that individual miner under this part;

(2) any representative of miners designated under part 40 of this title, to training certifications compiled under § 62.180(b) of this part and to any notice of exposure determination under § 62.110(d) of this part, for the miners whom he or she represents; and

(3) any former miner, for records which indicate his or her own exposure.

(b) When a person with access to records under paragraphs (a)(1), (a)(2), or (a)(3) of this section requests a copy of a record, the mine operator must provide the first copy of such record at no cost to that person, and any additional copies requested by that person at reasonable cost.

(c) Transfer of records.

(1) The mine operator must transfer all records required to be maintained by this part, or a copy thereof, to a successor mine operator who must maintain the records for the time period required by this part.

(2) The successor mine operator must use the baseline audiogram, or revised baseline audiogram, as appropriate, obtained by the original mine operator to determine the existence of a standard threshold shift or reportable hearing loss.